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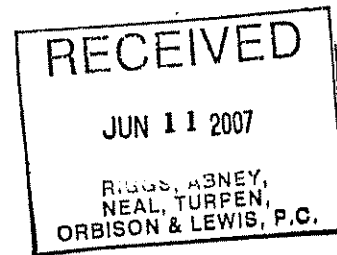
June 8, 2007

Via Email and Mail

Richard T. Garren
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J. Trevor Hammons
State of Oklahoma
Assistant Attorney General
313 NE 21st Street
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Re: *State of Oklahoma v. Tyson*
Our File No. 1790-2

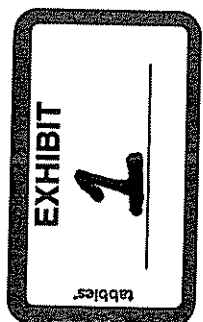


Dear Trevor and Rick:

We have conferred with our co-defendants about your proposals concerning the State's ESI described during our conference call yesterday. Although we are disappointed that the State was not able to discuss the deficiencies outlined in Ms. Mann's April 26, 2007 letter during yesterday's meet and confer as expected, like the State we are anxious to move forward so that the production of responsive ESI may be completed by July 2, 2007, the date ordered by the Court with the agreement of all parties.

As we understand it, the State's proposal is that all interested parties schedule meetings between their ESI liaisons and "technical people" to discuss the mechanics of the ESI production to be made by the State. In advance of each meeting, the State will provide information regarding the ESI it has identified as responsive to the Defendants' discovery requests as well as the State's proposed method of producing said responsive ESI. The State proposes to hold the first meeting sometime during the week of June 18, 2007 for the Oklahoma Department of Environmental Quality (ODEQ), and then to proceed with other agencies in subsequent meetings, the dates of which are yet to be determined.

After fully considering the State's proposal, Defendants have concluded that the State's proposal will further and unnecessarily delay the State's production of ESI making completion of the State's ESI production within the Court's July 2nd deadline virtually impossible. Moreover, the State's proposal improperly shifts the State's and its counsel's burden to review and produce responsive ESI to the Defendants.



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In an effort to streamline this process, Defendants propose instead that the State make its production of ESI determined to be responsive to each Defendant's requests in the format and media of the State's choosing, so long as that format and media are both reasonably usable and accessible. Though the Defendants' preference is that, to the extent practicable, all responsive ESI from the State be produced as TIFF images, from the Defendants' perspective, the key is to have a timely and complete production of responsive ESI within the Court-ordered deadline. As long as the information is (a) reasonably usable and accessible and (b) produced in such a manner as to allow each Defendant the ability to understand the information provided that is responsive to its specific requests, we will not quibble over the production format. To be clear,

1. Defendants will agree to the format and media of the State's choosing, so long as that format and media are both reasonably useable and accessible;
2. Defendants will agree to whatever email search protocol is developed by the State, so long as that search protocol is reasonably anticipated to capture all email responsive to Defendants' discovery requests;
3. Defendants will agree not to demand wholesale production of embedded data or metadata in the State's responsive ESI; however, Defendants reserve the right to later request such embedded data or metadata upon a showing of special need; and
4. Defendants will agree not to demand wholesale production of deleted, backup or archival data that is not currently reasonably accessible by the State (for example, data that would require unusual restoration efforts such as with disaster recovery); however, Defendants reserve the right to later request deleted, backup or archival data upon a showing of special need.

In short, we are leaving it to the State to identify its responsive and reasonably accessible ESI and to produce it in a format and media that meets its obligations under Rule 34 to each Defendant by the Court's deadline.

After the State's production of ESI on July 2, 2007, we can continue our meet and confer process including, if necessary, addressing the previous meet and confer deficiencies discussed in Ms. Mann's letter (which are distinct from the production mechanics discussed above) and meetings of our respective "technical people."

We will write separately to address outstanding ESI issues between the State and the Cargill Defendants.

Sincerely,



THERESA N. HILL

TNH:law
cc: ESI defense liaisons